

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DEBORAH KAY BEHRENS,

Defendant and Appellant.

G040222

(Super. Ct. No. 07HF0486)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, M. Marc Kelly, Judge. Affirmed.

Melissa Hill, under appointment by the Court of Appeal, for Defendant and Appellant Deborah Kay Behrens.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Meagan J. Beale and Kristine A. Gutierrez, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant Deborah Kay Behrens challenges her conviction for possession of a controlled substance. Before she pleaded guilty, the court denied her motion to suppress evidence. Defendant contends the evidence was inadmissible because the arresting officer lacked probable cause to stop her car and was unqualified to testify she appeared to be under the influence of a controlled stimulant.

We affirm. The traffic stop was a legal detention. Articulable facts reasonably suggested defendant made an illegal left-hand turn without signaling. The Vehicle Code section barring unsignaled turns is not unconstitutionally vague. And the officer was qualified to offer his opinion.

## FACTS

Two Costa Mesa police officers saw defendant pull her red Ford Explorer into one of two left-turn-only lanes at a “heavily congested” intersection near a freeway onramp at 3:30 p.m. on a Friday afternoon. Defendant did not have her turn signal activated. She proceeded to make the left-hand turn onto the freeway without signaling. The officers pulled her over. They got out of their car and walked up to her vehicle on the passenger side because traffic was going “extremely fast.” An officer asked defendant for her license, registration, and insurance information. He told her he pulled her over for failing to signal her turn.

Defendant replied there were bugs inside her car and made a pinching gesture. She acted nervously, spoke very rapidly, and made jerky, fidgeting movements. The officer suspected defendant may have been under the influence of a central nervous system stimulant. He ordered her to exit the vehicle, but she repeatedly refused. She finally complied, but then disobeyed his order to step away from the vehicle.

Defendant began walking backwards, within seven feet of the quickly passing cars. An officer grabbed her arm to keep her away from traffic, and directed the

other officer to hold her, too. Defendant began struggling and pulling away. The officers subdued her and arrested her for resisting an officer. (Pen Code, § 148, subd. (a)(1).) A female officer arrived and searched defendant, finding methamphetamine.

The District Attorney filed an information charging defendant with one count each of possession of a controlled substance (methamphetamine) (Health & Saf. Code, § 11377, subd. (a)) and resisting an officer (Pen. Code, § 148, subd. (a)(1)).<sup>1</sup>

Defendant moved to suppress the methamphetamine and the officer's observations of her behavior. She contended no probable cause existed to stop the car because her failure to signal did not affect traffic. (See Veh. Code, § 22107 [drivers must signal before turning "in the event any other vehicle may be affected by the movement"] (section 22107).) The court denied the motion.

Defendant pleaded guilty to the possession count. The court dismissed the resisting an officer count. It placed her on three years formal probation on the condition she complete a drug treatment program and either complete 60 days of community service or serve 60 days in county jail.

## DISCUSSION

### *Defendant's Failure to Signal Warranted the Traffic Stop*

"The standard to review the denial of a suppression motion is well settled. We must defer to the trial court on all its factual findings if they are supported by substantial evidence. Once the facts are determined, we then decide de novo whether the search or seizure was reasonable under established constitutional principles." (*People v. Logsdon* (2008) 164 Cal.App.4th 741, 744 (*Logsdon*).)

---

<sup>1</sup> Defendant was also charged with one count each of battery on a police officer (Pen. Code, § 243, subd. (b)) and assault on a police officer (Pen. Code, § 241, subd. (b)), but the court dismissed these counts on the prosecution's motion.

A traffic stop constitutes a detention under the Fourth Amendment. (*Logsdon, supra*, 164 Cal.App.4th at p. 744 [traffic stop for unsignaled lane change].) “A ‘detention is reasonable under the Fourth Amendment when the detaining officer can point to specific articulable facts that, considered in light of the totality of the circumstances, provide some objective manifestation that the person detained may be involved in criminal activity.’” (*Ibid.*) A traffic stop survives Fourth Amendment scrutiny “*only* if the facts and circumstances known to the officer support at least a reasonable suspicion that the driver has violated the Vehicle Code or some other law.” (*People v. Miranda* (1993) 17 Cal.App.4th 917, 926 (*Miranda*).)

Section 22107 provides, “no person shall turn a vehicle from a direct course . . . until . . . after the giving of an appropriate signal . . . in the event any other vehicle may be affected by the movement.” The court found defendant failed to signal and her turn may have affected other vehicles.

Defendant contends she could not have affected any other vehicle because she had no choice but to turn. She was in a left-turn-only lane controlled by a left-turn-arrow traffic light. She notes an officer testified no other vehicle had to stop or “jam on their brakes.”

Defendant misconstrues the statute and the Fourth Amendment issue. Section 22107 “appl[ies] to any vehicle which ‘*may* be affected . . .’ not only to vehicles actually affected.” (*Logsdon, supra*, 164 Cal.App.4th at p. 746.) “Actual impact is not required by the statute; potential effect triggers the signal requirement.” (*Id.* at p. 745.) And the potential effect involved is the effect from the *turn*, not the failure to signal — the statute requires a signal when another vehicle “may be affected by the *movement*.” (§ 22107, italics added.) “Moreover, the question is not whether [defendant] actually violated the statute. Rather, the issue was if some ‘objective manifestation’ that [she] may have committed such an error was present.” (*Logsdon, supra*, 164 Cal.App.4th at p. 746.)

Substantial evidence supports the finding that defendant's turn may have affected other vehicles. Defendant made her turn in a "heavily congested" intersection in the middle of a Friday afternoon. An officer testified there were "cars all around" her vehicle. And traffic on the freeway she turned onto was moving "extremely fast." The court explicitly credited the officer's testimony and rejected defendant's claim she actually signaled. The facts support our independent determination an "'objective manifestation'" existed that defendant may have violated section 22107 by turning without signaling. (*Logsdon, supra*, 164 Cal.App.4th at p. 744.)

Next, defendant challenges section 22107 as being unconstitutionally vague. She asserts no reasonable person would have notice that signaling is required when turning from a left-turn-only lane controlled by a left-turn-arrow traffic light. Not so. "[T]he actual language in . . . section 22107 is clear and unambiguous." (*Logsdon, supra*, 164 Cal.App.4th at p. 746.) Signaling is required whenever other vehicles "may be affected by" the turn. (§ 22107.) No reasonable reading of the statute suggests signaling is unnecessary when the turn is required by lane markings or traffic lights.<sup>2</sup>

Good public policy supports the plain reading of section 22107's bright-line mandate. Drivers do not always obey lane markings and traffic lights. A signal is thus the best indication of a driver's intention to turn. This court recently explained in an unsignaled lane-change case, "The lack of a signal *could* have been due to the driver's drifting into the lane without intending to do so, with the possible result of a very sudden over correction upon the error's discovery. Or, the driver could have unknowingly changed lanes due to a sudden illness or sleepiness." (*Logsdon, supra*, 164 Cal.App.4th

---

<sup>2</sup> We find unpersuasive these out-of-state cases construing other states' traffic laws. (*State v. Gonzalez* (Tenn.Crim.App. 2000) 52 S.W.3d 90; *State v. Smith* (Tenn.Crim.App. 1999) 21 S.W.3d 251; *State v. Goodman* (Ga.Ct.App. 1996) 469 S.E.2d 327; *State v. Williamson* (N.J.Super. 1994) 637 A.2d 195; *State v. Riley* (Fla. 1994) 638 So.2d 507; *Clark v. State* (Ga.Ct.App. 1993) 432 S.E.2d 220; *State v. Eidahl* (S.D. 1993) 495 N.W.2d 91; *Hall v. State* (Tex.Crim.App. 1973) 488 S.W.2d 788.)

at p. 746.) “The purpose of the signaling requirement is to *inform* other drivers what the initial driver intends and thus, provide them with an indication as to his or her future course.” (*Ibid.*)

Finally, defendant contends the traffic stop was unreasonably prolonged. She asserts the officer’s observation that she may have been under the influence of a central nervous stimulant did not justify prolonging the detention because some stimulants, like caffeine, are legal.

A police officer may detain a driver for the time “reasonably necessary to perform the duties incurred by virtue of the stop.” (*Miranda, supra*, 17 Cal.App.4th at p. 926.) “Thus, an officer may order the driver out of the car [citation], ask for and examine the motorist’s driver’s license and the car registration, discuss the violation and listen to any explanation, write a citation, and obtain the driver’s promise to appear.” (*Id.* at p. 927.)

The officer did not unreasonably prolong the detention. He could order defendant to step out of the car “as a matter of course” during a traffic stop. (*Pennsylvania v. Mimms* (1977) 434 U.S. 106, 110; accord *Miranda, supra*, 17 Cal.App.4th at p. 927.) He was still informing her about the violation when she began acting erratically. The officer testified she demonstrated symptoms of being under the influence of a “controlled substance” and “a central nervous system stimulant,” not just some legal stimulant like caffeine. His observations provide an additional, independent basis for the officer to order defendant out of the car. Her subsequent resistance to the officers justified her immediate arrest. The detention was not unreasonably prolonged.

#### *The Officer’s Testimony Was Admissible*

Finally, defendant contends the officer was unqualified to offer his opinion she may have been under the influence of a controlled central nervous system stimulant.

She asserts his “vague qualifications” failed to show he had special knowledge of these drugs.

“A witness is qualified to testify as an expert if the witness has special knowledge, skill, experience, or education pertaining to the matter on which the testimony is offered.” (*People v. Mendoza* (2000) 24 Cal.4th 130, 177; accord Evid. Code, § 720.) ““We are required to uphold the trial judge’s ruling on the question of an expert’s qualifications absent an abuse of discretion. [Citation.] Such abuse of discretion will be found only where ““the evidence shows that a witness *clearly lacks* qualification as an expert . . . .””” (*People v. Wallace* (2008) 44 Cal.4th 1032, 1062-1063.) “““Where a witness has disclosed sufficient knowledge of the subject to entitle his opinion to go to the jury, the question of the degree of his knowledge goes more to the weight of the evidence than its admissibility.””” (*People v. Bolin* (1998) 18 Cal.4th 297, 322.)

The court did not abuse its discretion by finding the officer was qualified to offer his expert opinion. The officer did not “““clearly lack[] qualification as an expert””” on recognizing the controlled substance abuse. (*People v. Wallace, supra*, 44 Cal.4th at p. 1063.) He testified he had received training on this subject at the police academy, completed an additional 24 hours of drug abuse recognition training, and arrested at least 10 people for being under the influence of a controlled substance. Any gap in his training and experience concerning a specific category of controlled substances, such as central nervous stimulants, “““goes more to the weight of [his testimony] than its admissibility.””” (*People v. Bolin, supra*, 18 Cal.4th at p. 322.)

DISPOSITION

The judgment is affirmed.

IKOLA, J.

WE CONCUR:

ARONSON, ACTING P. J.

FYBEL, J.